



## STAFF REPORT

TOWN COUNCIL MEETING OF APRIL 10, 2012

### CONSENT CALENDAR

To: Town Council

From: Roger Carroll, Finance Director/Treasurer

Subject: Participation in the Employment Risk Management Authority

Date: March 14, 2012

#### RECOMMENDATION:

Adopt resolution authorizing the Town Manager to apply for membership in the Employment Risk Management Authority

#### ISSUE AND DISCUSSION:

The Town currently protects itself from claims by injured parties through membership in the Small Cities Organized Risk Effort (SCORE). SCORE is a joint powers authority (a group of cities which share the cost of risk) that restricts its coverage to general liability and workers' compensation.

A growing trend in lawsuits is employment liability. This includes claims from sexual harassment and the American's with Disabilities Act to failure to promote and improper termination. These claims are specifically excluded from our coverage with SCORE, but are covered by our excess liability pool, the California Joint Powers Risk Management Authority. So, should the Town be found liable for such a claim, we would be responsible for the first \$500,000 of each claim.

It should be noted that at a recent CJPRMA board meeting, twenty-five of the thirty new claims presented that month were employment liability claims. Two of those claims had already reach \$500,000 in attorney costs and had not been settled yet.

The Employment Risk Management Authority (ERMA) is a joint powers authority that was started about ten years ago to specifically address employment liability. Not only does it cover the costs of

fighting and settling claims, but also includes free training for all supervisors in all areas of employment risk. This training is generally on-line and takes minimal time each month. This training is also available to Council members.

**FINANCIAL AND POLICY IMPLICATIONS:**

The cost of this coverage, with a \$25,000 retained limit (deductible) would be \$5,343 per year.

Attachments: Application and resolution

# EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

## LIABILITY COVERAGE APPLICATION

*If completed electronically, this application will adjust to allow space for any answers. If not completed electronically, then additional sheets may be needed.*

ENTITY NAME: Town of Loomis \_\_\_\_\_ Date: 3/14/2012 \_\_\_\_\_

### EMPLOYMENT PRACTICES INFORMATION

#### A. Policies and Procedures

1.	Does the Entity have a written Personnel Policies and Procedures Manual	x Yes <input type="checkbox"/> No
2.	Does the Entity distribute the manual to all employees?	x Yes <input type="checkbox"/> No
3.	Does the Entity have legal counsel regularly review the manual?	<input type="checkbox"/> Yes x No
4.	Are the following policies or procedures included in the manual? Check all that apply:	
	<input type="checkbox"/> Hiring	<input type="checkbox"/> Termination <input type="checkbox"/> Suspension
	x Medical Leave	<input type="checkbox"/> Unpaid Leave X Grievance Procedures
	x Drug & Alcohol Testing	<input type="checkbox"/> Disciplinary
	<input type="checkbox"/> Family Medical Leave Act	
	x Written Job Description for all Positions	
	x Regular Written Performance Evaluations for all employees	
5.	Does the Entity have legal counsel present at all disciplinary meetings?	x Yes <input type="checkbox"/> No
6.	Has there been a layoff of employees or is a reduction in service planned?	x Yes <input type="checkbox"/> No
7.	Does the entity have an orientation program for all employees that addresses workplace conduct and grievance procedures?	x Yes <input type="checkbox"/> No
<b>Please attach a copy of the following:</b> <ul style="list-style-type: none"> <li>• <b>Hiring Policies and Procedures</b></li> <li>• <b>Suspension Policies and Procedures</b></li> </ul>		

#### B. Employee Information

1.	Number of Full Time Employees: 9				
2.	Number of Part time Employees: 0				
3.	For each of the past five years, what has been your annual percentage turnover rate of employees?				
	2007 0%	2008 0%	2009 0%	2010 0%	2011 0%
4.	How many involuntary employment terminations have occurred in the past two years?				
	2011	2010 1			
	<i>Involuntary employment termination with respect to this questionnaire means notification to an employee that such employee will not longer be employed whether such notification is effective immediately or in the future. Involuntary employment termination shall also include actual or alleged constructive discharge.</i>				
5.	Percentage of Employees with salaries less than \$100,000 67%				Should = 100%
6.	Percentage of Employees with salaries greater than \$100,000 33%				

**EMPLOYMENT PRACTICES INFORMATION****C. Employment Practices Claims Handling**

1.	Who in the Entity has been designated to handle claims? Town Clerk/York Insurance Serv,	
2.	With respect to claims incidents, etc., do you have a written procedure for obtaining information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please attach a copy.		

**D. Employment Practices Risk Management**

1.	Does the applicant have a Human Resources or Personnel Department?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If no, please describe handling of this function: The Town Clerk does it all. She is the "department"		
2.	Does the applicant have a sexual harassment policy?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide a copy.		
3.	Does policy include a clear and open reporting procedure?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4.	Is policy "zero tolerance"?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5.	Is policy understandable (clear and concise)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6.	Is training provided to all supervisory personnel for the following:	
	a. Americans with Disabilities Act	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	b. Sexual Harassment	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	c. Discrimination	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7.	Is training documented in their personnel file?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8.	Does top management support policy?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9.	Is policy disseminated to all employees?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10.	Are new employees provided with a copy of the policy at orientation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11.	Is training on policy offered to all employees?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12.	Is training documented in their personnel file?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13.	Has legal counsel reviewed the policy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If no, please provide the review process. The Town Council reviewed and adopted the policy.		
14.	Do you have any established set of grievance procedures as an effective means of resolving disputes prior to litigation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
15.	Do you anticipate any "layoffs" during the next 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please provide details		
16.	Have you had any "layoffs" in the past 24 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide details A public works supervisor was laid off due to lack of work in April, 2010. The position has been removed from the Authorized Positions of the Town.		

**E. DESIRED SELF-INSURED RETENTION**

<input checked="" type="checkbox"/> \$25K	<input type="checkbox"/> \$50K	<input type="checkbox"/> \$75K	<input type="checkbox"/> \$100K	<input type="checkbox"/> \$250K	<input type="checkbox"/> \$500K
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Please attach a copy of the following:

- Entity's current Financial Audit

No fact, circumstance, or situation indicating the probability of a claim or action is now known to any person proposed for this coverage; and it is agreed by all concerned that if there be knowledge of any such fact, circumstance or situation, any claim or action subsequently emanating therefrom shall be excluded from coverage under the coverage for herewith being applied. The undersigned being authorized by, and acting on behalf of, the applicant and all persons or concerns seeking coverage, has read and understands this application, and declares all statements set forth herein are true, complete, and accurate, and include all material information.

The undersigned further declares and represents that any occurrence taking place prior to the inception of the coverage for which is being applied, which may render inaccurate, untrue or incomplete any statement made herein will immediately be reported in writing to ERMA. The undersigned acknowledges and agrees that the submission and ERMA's receipt of such report, prior to the inception of the coverage for which being applied, is a condition precedent to coverage.

The undersigned acknowledges and agrees this application contains requests for information and requests for data on a range of exposures, but such requests do not imply that coverage is afforded in the program for which is being applied.

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**Agency or Entity Name**

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**Applicant's Name**

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**Title**

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**Applicant's Signature**

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**Date**

# TOWN OF LOOMIS

RESOLUTION NO. 12\_\_\_\_\_

## A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS AUTHORIZING PARTICIPATION IN THE EMPLOYMENT RISK MANAGEMENT AUTHORITY

WHEREAS, the Town of Loomis wishes to obtain Employment Practices Liability coverage for the year ending June 30, 2013, and thereafter; and

WHEREAS, the Employment Risk Management Authority (ERMA) is a self-insured joint powers authority created for the sole purpose of Employment Practices Liability Coverage. ERMA is comprised of various public entities who risk share up to \$1 million against potentially unlawful employment practices and discrimination claims; and

WHEREAS, ERMA formed primarily due to the fact that government entities have not historically been able to secure Employment Practices Liability (EPL) coverage at a competitive cost through the commercial insurance marketplace; and

WHEREAS, ERMA has met all of the high professional standards established by the California Association of Joint Powers Authorities (CAJPA) in the areas of governance, finance, claims control, safety and loss control and ERMA is fully accredited by CAJPA. CAJPA's accreditation process requires reviews by independent consultants in the areas of accounting, claims adjusting, and actuarial analysis; and

WHEREAS, ERMA provides services to both Joint Powers Insurance Authorities and individual public entities; and

WHEREAS, the Town of Loomis has determined that it is in the best interest to become a member of ERMA for the purpose of obtaining Employment Practices Liability coverage; and

WHEREAS, ERMA requires the Town of Loomis to pass a resolution expressing the desire and commitment of the Town of Loomis's participation in ERMA, which requires a three year minimum participation period. Town of Loomis also understands our entity will be bound by the provisions in the ERMA Joint Powers Agreement just as though it were fully set forth and incorporated herein whether our entity had signed it individually or through an underlying Joint Powers Insurance Authority.

**NOW, THEREFORE, BE IT RESOLVED BY THE Town of Loomis:**

THAT, the Town of Loomis approves participation in ERMA April 10, 2012; and

THAT, the Town Manager on behalf of the Town of Loomis is hereby authorized to take any and all actions necessary to implement the foregoing resolution.

PASSED AND ADOPTED this 10<sup>th</sup> day of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Attorney